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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,490	08/22/2003	Paul A. Reynolds	DWE/REYNOLDS	8740
32834	7590	06/14/2007	EXAMINER	
D.W. EGGINIS 18 DOWNSVIEW DRIVE BARRIE, ON L4M 4P8 CANADA			BRADEN, SHAWN M	
		ART UNIT	PAPER NUMBER	
		3781		
		MAIL DATE		DELIVERY MODE
		06/14/2007		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/645,490	REYNOLDS, PAUL A.
	Examiner	Art Unit
	Shawn M. Braden	3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.
- 2a)  This action is FINAL.                            2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-19 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-19 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \* c)  None of:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5)  Notice of Informal Patent Application
- 6)  Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 19 recites the limitation "said tab outer faces" in line 8. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5,8-12,19 are rejected under 35 U.S.C. 102(b) as being anticipated by Cruey (USPN 5,937,483).

With respect to claim 1, Cruey shows a plurality (25,35,45) of substantially identical segments in mutually disconnectably (the parts are assembled as separate pieces therefore it can be disassembled without destroying the reference) hinged array to form an enclosure, wherein peripheral portions of the segments collectively comprise a peripheral wall (top of 15), of the container, and adjoining side wall portions of the segments collectively form a pair of container end walls (left and right walls in fig.1) in mutually spaced relation, each said segment side wall portion including a laterally flexible tab (95) portion located at each end of said segment and extending outside of

said ,segment peripheral, wall portion and having means for separably connecting each said segment in hinged relation to two adjacent said segments to form said container in a closed condition, and for connecting said them segments of said container in open, side by side serially connected relation (fig. 3), each said segment having a projecting heel portion (the corners) to individually stabilize said segment in an uptight standing position and enabling said container to stand in a display condition having each said segment connected to an adjoining segment and standing in (fig. 1) an upwards-open display condition (fig. 3).

5. With respect to claim 2, Cruey shows the segment side wall portions each includes a pair of tab portions located outside said segment peripheral wall portion, said tab portions including elements (50,55,03,40) of said means for separably connecting said segment.

6. With respect to claim 3, Cruey shows each tab portion of one said pair of tab portions includes a male hinge portion, and the other said pair of tab portions located at the other end of said segment each includes a female hinge portion for separably connecting said segments (fig. 6a).

7. With respect to claim 4, Cruey shows said container peripheral wall is substantially (substantially takes away form patentability) continuous when said container is in a closed condition (fig.1).

8. With respect to claim 5, Cruey shows said container end walls are substantially continuous when said container is in a closed condition (fig. 1).

9. With respect to claim 8, Cruey shows the peripheral wall is substantially cylindrical (fig 1).
10. With respect to claim 9, Cruey shows the segment heel portion comprises a projecting edge portion (10) to form said stabilizing heel for the container when standing in an upright position (fig. 1).
11. With respect to claim 10, Cruey shows the segment side portions include raised edge portions (fig. 6a the edge where element 75 meets element 80) forming abutments with adjoining parts of said segment side portions to serve as stabilizing contact surfaces with said adjoined container segments.
12. With respect to claim 11, Cruey shows the hinge means consist of female (100) and male (75) detent portions in mutually separable, mutually pivotal, attached relation (fig. 6a).
13. With respect to claim 12, Cruey shows the male and female detent portions are in predetermined mutually spaced apart relation such that, when adjacent said segments are in assembled relation to form a closed container, gaps (clearly shown in fig. 1) of predetermined size are created between adjacent surface portions of said container peripheral wall and between adjacent surface portions of said container end walls, to ventilate the container.
14. With respect to claim 19, Cruey shows a plurality of substantially identical case segments (the 4 segments shows in fig.1) which hinge together to form a substantially cylindrical container, each said case segment having two mutually opposed end walls

(element 25 on both end walls) and a substantially arcuate peripheral wall portion (top of cases) extending therebetween, each said end wall having a flexible tab portion (80) located at each end of the segment, said tabs extending beyond said peripheral wall to form two pairs (75, 85 on both sides of case) of mutually facing tabs, in manually deformable mutually spaced-apart relation; one pair of said tabs having male hinge means (75) consisting of substantially hemispherical protuberances (95) located on said tab outer faces, the other pair of said tabs located at the other end of said segment having a pair apertures (85) to receive similar said protuberances (95) of an adjoining said case segment in entered pivotal relation therein. whereby said case segments may be pivotally hinged together, to form a closable container, and said male hinge means of one said segment may be entered in secured relation into the apertures of an adjacent said segment to secure said container in a releasable, closed condition.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6,7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cruey in view of Koch (USPN 6,547,066).

Cruey discloses the invention substantially as claimed. However Cruey does not disclose separation means or the separation means are corrugations having spaces of predetermined width therebetween.

Koch teaches separation means are corrugations having spaces of predetermined width in the same field of endeavor for the purpose of separations contents.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add separation means are corrugations having spaces of predetermined width to the container of Cruey in order to neatly separate items.

16. Claims 13,16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gellert (4,234,080) in view of Goof (5,156,289).

With respect to claim 13 Gellert discloses the invention substantially as claimed. Gellert discloses at least three substantially identical segments (16), a peripheral wall (14), side wall portions (44), each segment having a projecting heel portion (the angled corners are considered the heel portion) to individually stabilize said segment in an upright standing position and enabling said container to stand in a display condition having each said segment connected to an adjoining segment and standing in an upwards-open display condition (fig.1). However Gellert does not disclose each segment including means for separably connecting each segment in hinged relation, Gellert also lacks the two pairs of tabs.

Goof teaches each segment including means for separably connecting each segment in hinged relation in the same field of endeavor for the purpose of more versatility.

Goof further shows a pair of flexible tab portions (28,30) includes a male (28) and a female hinge (32) portion. Goof discloses the claimed invention except Goof has male and female portions on each side. It would have been an obvious matter of design choice to have both male on one side and female on the other side, since applicant has not disclosed that different orientation solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with male and female tab portions on each side.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the hinge of Goof instead of the living hinge of Gellert in order to manufacture in a smaller mold thus saving money.

17. In response to applicant's argument, applicant states "claim 13 has been amended" (page 10 of arguments), Examiner objects to this statement since examiner cannot find any changes. Therefore applicant's argument of "the location of the flexible tabs is external to the interior of the container" is moot. Also applicant argues that Goof is not flexible, examiner states that most all materials are flexible even the deformation-resistant material of Goof.

18. Claims 14,15,17,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gellert (4,234,080) in view of Goof (5,156,289).

Gellert discloses the invention substantially as claimed. However Gellert does not disclose separation means or grooves.

Goof teaches "The utility as combined storage casing and exposure tray can be further increased by associating to each lamellar part a partition insert for removable fitting to the inside of the lamellar part. Thereby objects or utensils can be stored separately in the closed condition of the casing, and can be exposed in a well-arranged and easy accessible manner in the unfolded condition of the casing" (col. Ln. 52)

Goof partitions are disclosed to be on the peripheral wall (12) and has the structure and recitation of applicants peripherally extending separation means, or grooves, on the inner surface thereof, in use for separating elements of predetermined size when inserted into the segment. The above by Goof also inherently discloses the structure and recitation of separation means are corrugations having spaces of predetermined width therebetween. Goof also shows partitions (40) which has the structure and recitation of corrugations, in the same field of endeavor for the purpose of separating contents.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the separation means as taught by Goof to the container of Gellert in order to keep contents from shifting around.

***Response to Arguments***

19. Applicant's arguments with respect to claims 1-12, 19 have been considered but are moot in view of the new ground(s) of rejection.
20. Applicant's arguments filed 03/20/2007 have been fully considered but they are not persuasive. See above.

***Conclusion***

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Braden whose telephone number is (571)272-8026. The examiner can normally be reached on Mon-Friday 9-6:30 est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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